THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION No. 20424 of 1999

DATED:12-08-2005

Between:

K. Prabhakar Rao,

S/o. Late Parvathasham,

R/o. Barlipi Bazar, H.No.9-5-73,

Kothagudem, Khammam District. …..Petitioner

AND

1.Managing Director,

A.P.S.r.T.C.,

Musheerabad, Hyderabad and 2 others …..Respondents

THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION No. 20424 of 1999

ORDER:

This writ petition is filed by the workman seeking a writ of mandamus to declare the action of the respondents in not fixing pay and reckoning seniority from the date of publication of the Award in I.D.No.348 of 1988 dated 5-3-1990 on the file of the Industrial Tribunal-cum-Labour Court, Warangal, as arbitrary and illegal.

There is no necessity of going into the details. It is suffice to notice that the petitioner while working as a cleaner was proceeded with departmentally on the charge of misconduct and ultimately, he was removed from service. Aggrieved by the same, the petitioner raised a dispute under Section 2-A (2) of the Industrial Disputes Act before the Industrial Tribunal-cum-Labour Court, Warangal and the same was taken on file as I.D.No.348 of 1988. The Industrial Tribunal-cum-Labour Court, after an elaborate consideration, passed the award directing the management/respondents to appoint the petitioner afresh as a cleaner. However, the management filed W.P.No.3357 of 1991 before this Court and obtained stay. Ultimately, the said Writ petition was dismissed on 16.06.1995. After dismissal of the writ petition, the petitioner was appointed afresh on 11-09-1995. However, the petitioner was not paid salaries for the period from 5-3-1990 to 11-9-1995. Hence, this writ petition.

A detailed counter-affidavit has been filed by the respondents denying the allegations made by the petitioner.

However, now it is brought to the notice of this Court that during the pendency of the writ petition, the petitioner was paid with all the arrears of salary from 5-3-1990 to 11-09-1995. But, there is no mention as to whether the petitioner was also allowed the increments from 5-3-1990 to 11-09-1995. Further, it is asserted by the respondents that the seniority of the petitioner was counted from 11-09-1995 only since he was not in active service for the period from 5-3-1990 to 11-09-1995. In fact, the petitioner was prevented from joining the duty by filing the W.P.No.3357 of 1991, which was ultimately, dismissed. Therefore, the petitioner cannot be denied either his increments from 5-3-1990 to 11-09-1995 or the salary as per his eligibility.

In the above facts and circumstances of the case, I am of the considered opinion that the petitioner is also entitled for continuity of service for the purpose of seniority and other benefits right from 5-3-1990 till 11-09-1995.

In the result;

a. The petitioner is entitled for continuity of service from 5-3-1990 to 11-09-1995.

b. He is also entitled for increments for the period from 5-3-1990 till 11-9-1995.

c. He is also entitled for refixation of his pay fixed as on the date of his reinstatement i.e., 11.9.1995 by taking into consideration the above two clauses.

Subject to the observations, this writ petition is allowed. No order as to costs.

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12th August, 2005

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